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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 3792.1B**
Effective Date: July 29, 2006
Expiration Date: July 29,
2011[Printable Format \(PDF\)](#)

Request Notification of Change

 (NASA Only)**Subject: Plan for a Drug-Free Workplace (REVALIDATED w/Change 1 12/06/06)****Responsible Office: Office of Human Capital Management**[| TOC](#) | [ChangeHistory](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) |
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Chapter 7. Records and Reports

7.1 Confidentiality of Test Results

7.1.1 The laboratory may disclose confirmed laboratory test results only to an MRO. Any nonnegative result that the MRO justifies by licit and appropriate medical or scientific documentation to account for the results as other than the intentional ingestion of an illegal drug, shall be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results shall be protected under the provisions of the Privacy Act of 1974, 5 U.S.C. §552(a), et seq., and Public Law 100-71, Section 503(e) and may not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with EO 12564. Any records of the MRO, including drug-test results, may be released to any supervisor or management official(s) having authority to take adverse personnel actions for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

7.1.2 To comply with Public Law 100-71, Section 503(e), the results of a drug test of a NASA employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be to any of the following:

- a. The Agency's and/or Center's MRO.
- b. The EAP Administrator, when the employee is receiving counseling or treatment.
- c. Any supervisor, management official(s), or employee relations specialist within NASA having authority to take or recommend adverse personnel action against the employee.
- d. Pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any adverse personnel action.

7.1.3 Test results with all identifying information removed shall also be made available to NASA personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

7.2 Employee Access to Records

7.2.1 Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to the following:

- a. Such individual's drug test.
- b. The results of any relevant certification, review, or revocation of proceedings, as referred to in Section 503(a)(1)(a)(ii)(III) of the Act.

7.3 Confidentiality of Records in General

7.3.1 All drug-testing information, specifically relating to individuals, is confidential and should be treated as such by

anyone authorized to review or compile program records. To implement EO 12564 efficiently and to make information readily retrievable, the DPC shall maintain all records relating to reasonable-suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary.

7.3.2 All records and information of the personnel actions taken on employees with verified nonnegative test results should be forwarded to the appropriate HRO representative. Such shall remain confidential and be appropriately safeguarded, allowing access only to authorized individuals who have a need to know.

7.4 Maintenance of Records

7.4.1 The records resulting from this Plan are maintained in accordance with the Privacy Act under the Office of Personnel Management (OPM) GOVT-10 Privacy Act System of Records and all other applicable Federal laws, rules, and regulations regarding confidentiality of patient records. They are dispositioned in accordance with NPR 1441.1, NASA Records Retention Schedules.

7.4.2 The recordkeeping system captures sufficient documents to meet the operational and statistical needs of this Plan and includes the following:

- a. Notices of verified nonnegative test results referred by the MRO.
- b. Written materials justifying reasonable-suspicion and post-accident or unsafe practice testing or evidence that an individual may have altered or tampered with a specimen.
- c. Anonymous statistical reports.
- d. Other documents that the DPC, MRO, or EAP Administrator deem necessary for compliance with this Plan.

7.4.3 If necessary, other records may be maintained as required by subsequent administrative or judicial proceedings or at the discretion of the NASA DPM.

7.5 EAP Records

7.5.1 The EAP Administrator shall maintain only those records necessary to comply with this Plan. After a management official refers an employee, the EAP Administrator shall maintain all records necessary to carry out his/her duties.

7.5.2 All medical and/or rehabilitative records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by 42 CFR Part 2, including the provision of written consent by the employee.

7.5.3 With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress (42 CFR Part 2).

7.6 Statistical Information

7.6.1 The DPC shall collect and compile anonymous statistical data for reporting the following:

- a. Random, reasonable-suspicion, post-accident or unsafe practice, follow-up, and pre-employment tests administered.
- b. Verified nonnegative (positive, adulterated, substituted, or invalid) test results.
- c. Voluntary drug counseling referrals.
- d. Involuntary drug counseling referrals.
- e. Terminations or denial of employment offers resulting from the following:
 - (1) Refusal to submit to testing.
 - (2) Alteration of specimens.
 - (3) Failure to successfully complete an EAP counseling or rehabilitative program and follow-up testing.
- f. Employees who successfully complete the EAP counseling or rehabilitative program and follow-up testing.

7.6.2 These data, along with other pertinent information, shall be compiled and provided to HHS upon their request for the annual report to Congress required by Section 503(f) of the Act, to assist in overall program evaluation, and to determine whether changes to the HHS Mandatory Guidelines may be required.

7.7 Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this Plan shall comply with the confidentiality requirements of EO 12564, all applicable Federal laws, rules, regulations, and guidelines, and this Plan.

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